

Appl. No. : 10/714,097
Filed : November 14, 2003

REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested.

Initially, the decision that the Declaration does not overcome the Schwartz reference is respectfully traversed.

Turning first to the issue of whether the conception was sufficient, consider draft application page 7 as attached to the previous declaration. It states that the type 39 barcode has 41 possible values for each digit, and that the code is considered as a number in base 41. This is used to support a conception of a claim that defines decoding the barcode to obtain information about personal identification therefrom, in a base n format, where n is at least 80% of the capability of all digits of the Barcode". Clearly the draft application supports that. The statement that somehow this is just a vague idea of how to solve a problem is respectfully traversed. The actual conception is supported by this document.

The rejection also alleges that the issue of diligence is not addressed. However, since there are only approximately 21 days in difference between the two filing dates, diligence should speak for itself in this particular situation. Applicant was drafting the application and three weeks of delay clearly establishes diligence in anyone's case. Therefore, Applicant respectfully renews the request that Swartz be disqualified as prior art.

All rejections based on Swartz are believed to be overcome by this rejection.

Claim 1 is rejected based on Paul. This contention is respectfully traversed. The rejection admits that Paul "is silent to the format of barcode to be a base n where n is at

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least 80% of the capability of all digits. Since this language is actually in the claims, with all due respect, it is improper for the Patent Office to simply decide to ignore this limitation. The rejection states that certain barcodes meet this limitation. However, this mere statement does not qualify as prior art. With all due respect, if this is based on personal knowledge of the Examiner, it must be supported in some way. For these reasons, the rejection based on this respectfully traversed.

Claim 17 stands rejected based on Buckley. In response, claim 17 is canceled, and claims 18 and 19 are each amended to include the limitations of claim 17. Buckley does teach a barcode and figure 5 apparently suggests that the barcode may be used to access a website. However, nowhere is there any teaching or suggestion that the barcode represents an advertisement as claimed. Figure 5 simply suggests that the barcode can represent a software application, database or content provider or article with a database. Nowhere is there any teaching or suggestion that this information could be on an advertisement. A special advantage is obtained in the context of an advertisement, since this allows the user to access the website associated with the advertisement. This could be a very powerful advertising tool. This is not suggested by Buckley. Since the cited prior art does not teach or suggest barcodes on an advertisement, the rejection fails to meet the Patent Office's burden of providing a prima facie showing of unpatentability.

Claims 19 and 20 were rejected over Buckley in view of Spector. The rejection alleges that Spector teaches a time and place of an event, referring to Figure 3 and column 7 of Spector. This cited portion of Spector merely teaches that the coupons may change over the course of a day. It teaches nothing about time and place of an

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event as described in the communication, or that the barcode represents the time and place of the event as claimed. Therefore, claim 19 should be even further allowable. The remaining dependent claims should be allowable for analogous reasons.

Claim 38 has been to include the limitations of claim 43 therein. As described above, there is no teaching or suggestion, anywhere in the cited prior art, that the "communication represents an advertisement", and that the barcode can be used to obtain supplemental information associated with the advertisement. As discussed above, this produces significant advantages, which advantages are no way taught or suggested by the cited prior art.

In view of the above amendments and remarks, therefore, all of the claims should be in condition for allowance. A formal notice to that effect is respectfully solicited.

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

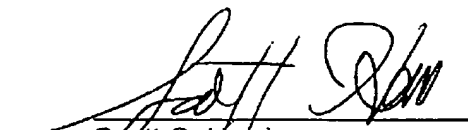
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Respectfully submitted,

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Scott C. Harris
Reg. No. 32,030

Customer No. 23844
Scott C. Harris, Esq.
P.O. Box 927649
San Diego, CA 92192
Telephone: (619) 823-7778
Facsimile: (858) 678-5082